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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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EXAMINER			

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ERR1/1112

DUE: February 12, 1997

Docketed on 1/10/97 **by** [signature] **for** 2304

Docketed without fee ☐
Attorney [signature]

DATE MAILED: 11/12/96
1/12/97
5/12/97

This is a communication from the examiner in charge
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☒ Responsive to communication filed on 6/21/96 ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), 7 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input checked="" type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-101 are pending in the application.
Of the above, claims 41-101 are withdrawn from consideration.
2. ☐ Claims have been cancelled.
3. ☐ Claims are allowed.
4. ☒ Claims 1-40 are rejected.
5. ☐ Claims are objected to.
6. ☐ Claims are subject to restriction or election requirement.
7. ☒ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____ Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).
12. ☒ Acknowledgement is made of the claim; for priority under 35 U.S.C. 119. The certified copy has ☒ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

EXAMINER'S ACTION

ART UNIT 2304

✓ 1. This application has been examined in response to Applicants' communication filed on June 21, 1996. Claims 1-101 are currently pending.

✓ 2. Receipt is acknowledged of papers submitted under 35 U.S.C. § 119, which papers have been placed of record in the file.

5 ✓ 3. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

✓ 4. The restriction requirements mailed on January 18, 1996 (paper number 4) and May 23, 1996 (paper number 6) are incorporated herein.

10 ✓ 5. Applicant's election with traverse of Group 1A (claims 1-40) in Paper No. 7 is acknowledged. The traversal is on the ground that a single novelty search would appear to suffice to locate prior art relevant for determining patentability of claims in all of the groups that. This is not found persuasive because a search required for the Group 1A such as class 364, subclass 424.1, for example, is not required for the Group IV which is directed to a mechanical structure.

15 J Thus, the requirement is still deemed proper and is therefore made FINAL. Also, claims 41-101 are withdrawn from further consideration by the Examiner as being directed to non-elected inventions. 37 CFR § 1.142(b).

ART UNIT 2304

6. The disclosure is objected to because of the following informalities:

One of the parent applications referenced on page 2 of the specification is not identified by its serial number. The Applicants are requested to update the continuing data as in the specification as well as in the declaration.

Further, the table on page 97 of the specification is more than five inches wide. See 37 CFR § 1.58(c). Correction is required.

7. Claims 1-40 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7.1 As per claim 1, "selectively variable" (lines 8-9) is vague and indefinite. Also, it is not clear whether the magnitude of torque being transmitted by the output element is different from the magnitude of torque transmitted by the clutch. Finally, the text starting with "ascertaining and adaptively applying" and continuing to the end of the claim is vague and confusing, and does not appear to make any sense.

7.2 As per claim 2, there is no recitation of steps for determining the RPM of the output element, for determining k_{corr} , for determining $M_{\text{corr pm}}$, for determining M_{pm} , and for determining $M_{\text{corr wu}}$. These steps are necessary for determining the torque to be transmitted by the clutch. Thus, the claim is incomplete. Also, "at least substantially constant within the entire operating range of the power train" is vague and indefinite, and appears to contradict the disclosure (see Figure 27).

ART UNIT 2304

7.3 Claim 6 does not make sense and appears to be meant to depend on claim 2, not claim 1.

7.4 Claim 9 is confusing and does not appear to make sense.

7.5 As per claim 14, "can be unequivocally defined by a non-analytical technique" is functional and not supported by the recited means/steps.

7.6 As per claim 15, it is not clear what the "I return flow of fluid" means.

7.7 As per claim 21, see the above rejection of claim 2.

7.8 Claim 22, is confusing and does not appear to make sense.

7.9 As per claim 23, "efficiency" (line 4) and "utilization" (line 7) lack proper antecedent bases.

7.10 Claim 24 is exactly the same in scope as claim 23 because "speed ratios" and "drive ratios" are the same.

7.11 As per claim 25, the exemplary language "such as a combustion engine" makes the scope of the claim indefinite. Also, the text starting with "wherein the magnitude of torque being transmitted" and ending with "regulatable by the computer unit" (lines 7-12) does not make sense. Further, there is no recitation of steps for determining k_{corr} and for determining M_{pm} . These steps are necessary for determining the torque to be transmitted by the clutch. Thus, the claim is incomplete. Also, "at least substantially constant within the entire operating range of the power train" (lines 18-19) is vague and indefinite, and appears to contradict the disclosure (see Figure 27). Finally, the text starting with "applying the thus ascertained force" and continuing to the end of the claim is confusing and does not appear to make sense.

7.12 As per claims 26-29, see the above rejection of claim 25.

ART UNIT 2304

7.13 As per claim 29, there is no recitation of step for determining the RPM of the output element which is necessary for the recited method.

7.14 As per claim 33, it is not clear to what "that torque" (line 2) refers. The recited undertakings (A)-(D) are vague, confusing, and indefinite in scope. For example, see "such as blocking of the clutch" (line 10).

7.15 As per claim 34, see the above rejection of claim 33.

7.16 As per claim 35, "likely to develop" (line 3) and "likely to entail" (line 7) make the claim vague and indefinite. Also, "which ensures insulation . . ." is functional and not supported by the recited means/steps.

7.17 As per claim 36, see the above rejection of claim 35.

7.18 Claim 37 does not make sense.

7.19 As per claim 38, the claim is incomplete without a step of detecting "indication of intended acceleration of the prime mover." Also, the exemplary language "such as by a change . . ." makes the scope of the claim indefinite.

7.20 As per claims 39-40, see the above rejection of claims 23-24.

7.21 The applicants are advised to establish proper antecedent bases for the terms aforementioned and for all other terms without proper antecedent bases which may exist throughout the claims.

7.22 All the dependent claims are rejected or further rejected for incorporating deficiencies cited above from their respective parent claims.

ART UNIT 2304

8. Claims 1-40 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

5 Although determination of factors k_{corr} , $M_{\text{corr pm}}$ and $M_{\text{corr wu}}$ are critical to the claimed invention, there is not enough guidance by the present disclosure regarding selection or determination of the above factors to enable one of skilled in the art to make and use the present invention. Since there are three factors that must be selected or determined, the present disclosure does not enable one of skilled in the art to make and use the present invention without
10 undue experimentation.

9. Because it is not possible for the Examiner to reasonably interpret the scope of the claims in light of the deficiencies cited above, it is deemed inappropriate to reject the claims based on prior art at this time. In re Steele, 134 USPQ 292, 295 (CCPA 1962). The Applicants are not to regard this as an indication of allowable subject matter.

15 10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Collin W. Park whose telephone number is (703) 305-9754. The examiner can normally be reached on Tuesday - Friday from 6:30 AM - 5:00 PM.

 If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Teska, can be reached on (703) 305-9704. The fax phone number for this
20 Group is (703) 308-5357.


SERIAL NO. 8 - 392,127

7

ART UNIT 2304

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-9600.

November 7, 1996


COLLIN W. PARK
PRIMARY EXAMINER
GROUP 2300